

672  
7

When Recorded Mail To:  
SB CLINTON L.C. 4  
2231 R. 4800 South  
Salt Lake City, UT 84117

RETURNED

JAN - 8 1999

E 1476193 8 2426 P 1382  
SHERYL L. WHITE, DAVIS CNTY RECORDER  
1999 JAN 8 11:50 AM FEE 67.00 DEP B/M  
REC'D FOR SB CLINTON LC

14-019-0044, 0064, 0068  
NE 28 5N 2W

ROAD MAINTENANCE  
AGREEMENT

THIS ROAD MAINTENANCE AGREEMENT is executed this 1<sup>st</sup> day of DECEMBER, 1998, by SB CLINTON, L.C., a Utah limited liability company, as owner ("Owner") of the real property which is the subject of this agreement and described below.

RECITALS

A. Owner is currently developing certain real property generally located at or near the northwest corner of the intersection of 2000 West Street and 1800 North Street in the City of Clinton, Davis County, State of Utah. The property development consists of both commercial and residential improvements.

B. On October 22, 1998, Owner previously executed a Declaration of Easement relating to a private street ("private street") running through the property development. Such Declaration of Easement was recorded in the office of the Davis County Recorder on October 23, 1998 at Book 2379 and Page 375 as Entry No. 1451280. Pursuant to such Declaration of Easement, the commercial property and improvements described therein were granted an easement of ingress and egress over and across a portion of the private street as described in such Declaration of Easement.

C. The private street which is the subject of such Declaration of Easement is primarily intended to service a residential development located generally to the north of the commercial property and improvements. Such private street is described on the attached Exhibit "A".

D. Owner currently holds fee title to the property which is being developed for residential uses. A portion of the residential property is intended to be developed in two phases as lots for single family residences. The two phases are more particularly described on the attached Exhibit "A" as "Clinton Town Center Subdivision Phase I Property" and "Clinton Town Center Subdivision Phase II Property". Both phases will be subject to the rules, regulations and control of a single homeowner's association.

E. The other portion of the residential property is intended to be developed into an apartment community. Such property is described on the attached Exhibit "A" as the "Apartment Parcel".

F. Future maintenance of the private street will be jointly and equally provided by the owners of the Clinton Town Center Subdivision (both phases), on the one hand, and the Apartment Parcel, on the other hand. Owners of the commercial properties which have rights of ingress and egress over and across the private street will have no responsibility for future maintenance of the private street.

G. Owner hereby desires to memorialize the maintenance duties and responsibilities pertaining to the private street.

NOW, THEREFORE, Owner hereby declares as follows:

1. Future maintenance and upkeep of the private street is the responsibility of the owners of the Clinton Town Center Subdivision (both phases) on the one hand, and the owners of the Apartment Parcel, on the other hand. Such duties and responsibilities shall be handled for the two phases of the Clinton Town Center Subdivision by the owners association of such subdivision. Any costs and expenses incurred for maintenance and upkeep of the private road shall be shared equally by the subdivision owner's association (on behalf of both phases) and the owner of the Apartment Parcel.

2. Responsibility for such expenses and costs by the Apartment Parcel shall not commence until such time as any unit on such parcel is rented or occupied. At such date, the costs and expenses shall thereafter be shared on an equal basis between such owners as set forth above.

3. No owner, tenant, user or other occupant of any of the commercial improvements of the adjacent shopping center development shall have any obligation or responsibility of maintenance or upkeep of the private street.

4. Decisions relating to proposed expenses shall be handled jointly between the owner's association and owner of the Apartment Parcel. The private street is shall be maintained in the same manner as public streets of the same nature and use.

5. This Road Maintenance Agreement shall be a permanent burden upon the private street and each portion thereof. The provisions of this agreement shall be binding upon Owner and its successors and assigns, and upon any person or entity acquiring any lot in either phase of the Clinton Town Subdivision or ownership of the Apartment Parcel, whether by operation of law or otherwise. The burden described herein shall be appurtenant to and for the benefit of the owners of the residential real property described herein and the provisions of this agreement shall inure to the benefit of such owners of such properties, or any interest therein.

6. Any person or entity in default of the terms of this Road Maintenance Agreement shall be responsible for all costs of enforcing the same, including a reasonable attorneys fee.

7. This Road Maintenance Agreement may be amended only upon the written agreement by the owner's association of the subdivision (or its successors and assigns) and the owner of the Apartment Parcel.

8. Following execution, this agreement shall be recorded with the office of the Davis County Recorder, State of Utah.

EXECUTED as of the date first set forth above.

SB CLINTON, L.C., a Utah  
limited liability company

by *H. Ernie Smith*  
Manager

STATE OF UTAH )  
                                  )ss.  
COUNTY OF DAVIS )

The foregoing Road Maintenance Agreement was acknowledged before me this 1<sup>st</sup> day of DECEMBER, 1998, by H. ERNIE SMITH, Manager of SB Clinton L.C., a Utah limited liability company.

My commission expires:

6-12-2002

*Carol Hintze*  
Notary Public in and for the State of Utah  
Residing at: *Sweet Jade City, Utah*



44-019-0068  
N6

EXHIBIT "A"

E 1476193 12426 P 1385

Page 1

Private Street Legal Description:

**PRIVATE STREET (ADJACENT TO COMMERCIAL)  
LEGAL DESCRIPTION**

BEGINNING AT A POINT NORTH 89°59'06" WEST 1,167.189 FEET AND NORTH 00°00'54" EAST 42.00 FEET FROM THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING ON THE NORTH RIGHT OF WAY LINE OF 1800 NORTH STREET (STATE ROUTE 37) AND RUNNING THENCE NORTH 89°59'06" WEST 50.00 FEET ALONG SAID RIGHT OF WAY LINE; THENCE NORTH 86.96 FEET TO A POINT OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH IS EAST 140.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND THROUGH A CENTRAL ANGLE OF 36°01'13", 88.01 FEET TO A POINT OF A REVERSE CURVE TO THE LEFT, THE RADIUS POINT OF WHICH IS NORTH 53°58'47" WEST 99.50 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE AND THROUGH A CENTRAL ANGLE OF 36°01'13", 62.55 FEET TO A POINT OF TANGENCY; THENCE NORTH 156.38 FEET TO A POINT OF A CURVE TO THE LEFT, THE RADIUS POINT OF WHICH IS WEST 100.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND THROUGH A CENTRAL ANGLE OF 22°34'17", 39.39 FEET TO A POINT OF NON-TANGENCY; THENCE EAST 49.18 FEET TO A POINT ON A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH BEARS SOUTH 70°38'14" WEST 150.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 19°21'46" 50.69 FEET TO A POINT OF TANGENCY; THENCE SOUTH 145.03 FEET TO A POINT OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH IS WEST 149.50 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AND THROUGH A CENTRAL ANGLE OF 36°01'13", 93.99 FEET TO A POINT OF A REVERSE CURVE TO THE LEFT, THE RADIUS POINT OF WHICH IS SOUTH 53°58'47" EAST 90.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE AND THROUGH A CENTRAL ANGLE OF 36°01'13", 56.58 FEET TO A POINT OF TANGENCY; THENCE SOUTH 86.97 FEET TO THE POINT OF BEGINNING. CONTAINS 21,572 SQUARE FEET OR 0.50 ACRES

## EXHIBIT "A"

Page 2

E 1476193 S 2426 P 1386

Clinton Towne Center Subdivision Phase 1 Legal Description:

CLINTON TOWNE CENTER SUBDIVISION PHASE 1  
LEGAL DESCRIPTION

BEGINNING AT A POINT NORTH 00°07'29" EAST ALONG THE SECTION LINE 1243.91 FEET AND NORTH 89°59'29" WEST 967.11 FEET FROM THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 5 RANGE 2 WEST SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 165.88 FEET TO A POINT ON A CURVE TO THE LEFT, THE RADIUS POINT OF WHICH IS SOUTH 01°03'03" EAST 400.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 85°32'38" WEST 47.52 FEET) AND THROUGH A CENTRAL ANGLE OF 6°48'41", 47.55 FEET TO A POINT OF A REVERSE CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH IS NORTH 07°51'44" WEST 400.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 88°54'17" WEST 94.27 FEET) AND THROUGH A CENTRAL ANGLE OF 13°32'03", 94.49 FEET TO A POINT OF A REVERSE CURVE TO THE LEFT, THE RADIUS POINT OF WHICH IS SOUTH 05°40'19" WEST 368.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE (CHORD BEARS NORTH 87°09'48" WEST 36.41 FEET) AND THROUGH A CENTRAL ANGLE OF 05°40'19", 36.43 FEET TO A POINT OF TANGENCY; THENCE SOUTH 128.70 FEET; THENCE SOUTH 29°32'55" EAST 10.14 FEET; THENCE SOUTH 362.48 FEET; THENCE SOUTH 71°19'53" WEST 64.93 FEET; THENCE SOUTH 46°07'50" EAST 43.71 FEET TO A POINT OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH IS SOUTH 43°52'10" WEST 150.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 23°03'55" EAST 117.53 FEET) AND THROUGH A CENTRAL ANGLE OF 46°07'50", 120.77 FEET TO A POINT OF TANGENCY; THENCE SOUTH 145.03 FEET TO A POINT OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH IS WEST 149.50 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 18°00'36" WEST 92.45 FEET) AND THROUGH A CENTRAL ANGLE OF 36°01'13", 93.99 FEET TO A POINT OF A REVERSE CURVE TO THE LEFT, THE RADIUS POINT OF WHICH IS SOUTH 53°58'47" EAST 90.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE (CHORD BEARS SOUTH 18°00'37" WEST 55.65 FEET) AND THROUGH A CENTRAL ANGLE OF 36°01'13", 56.58 FEET TO A POINT OF TANGENCY; THENCE SOUTH 94.87 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF 1800 NORTH STREET (SR-37); THENCE NORTH 89°59'06" WEST ALONG SAID NORTH LINE, 50.00 FEET; THENCE NORTH 94.86 FEET TO A POINT OF A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH IS EAST 140.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE (CHORD BEARS NORTH 18°00'37" EAST 86.57 FEET) AND THROUGH A CENTRAL ANGLE OF 36°01'13", 88.01 FEET TO A POINT OF A REVERSE TO THE LEFT, THE RADIUS POINT OF WHICH IS NORTH 53°58'47" WEST 99.50 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE (CHORD BEARS NORTH 18°00'36" EAST 61.53 FEET) AND THROUGH A CENTRAL ANGLE OF 36°01'13", 62.55 FEET TO A POINT OF TANGENCY; THENCE NORTH 156.38 FEET TO A POINT OF A CURVE TO THE LEFT, THE RADIUS POINT OF WHICH IS WEST 100.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE (CHORD BEARS NORTH 11°17'06" WEST 39.14 FEET) AND THROUGH A CENTRAL ANGLE OF 22°34'17", 39.39 FEET TO A POINT OF NON-TANGENCY; THENCE WEST 151.92 FEET; THENCE NORTH 00°04'22" EAST 779.10; THENCE SOUTH 89°59'29" EAST 365.54 FEET TO THE POINT OF BEGINNING. CONTAINS 4.56 ACRES.

## Clinton Towne Center Subdivision Phase II Legal Description:

CLINTON TOWNE CENTER SUBDIVISION PHASE 2  
LEGAL DESCRIPTION

BEGINNING AT A POINT NORTH  $00^{\circ}07'29''$  EAST ALONG THE SECTION LINE 934.577 FEET AND NORTH  $89^{\circ}52'31''$  WEST 55.00 FEET FROM THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH  $89^{\circ}59'25''$  WEST 355.953 FEET; THENCE NORTH  $88^{\circ}44'17''$  WEST 94.539 FEET; THENCE WEST 634.000 FEET TO A POINT ON THE EAST LINE OF CLINTON TOWNE SUBDIVISION PHASE 1; THENCE ALONG SAID PHASE LINE NORTH  $29^{\circ}32'55''$  WEST 10.139 FEET; THENCE NORTH 128.700 FEET TO A NON TANGENT POINT ON A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH BEARS SOUTH 368.000 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF  $5^{\circ}40'19''$  36.43 FEET TO A POINT OF A REVERSE CURVE TO THE LEFT, THE RADIUS POINT OF WHICH BEARS NORTH  $05^{\circ}40'19''$  EAST 400.000 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF  $13^{\circ}32'03''$  94.49 FEET TO A POINT OF A REVERSE CURVE TO THE RIGHT WHOSE RADIUS BEARS SOUTH  $07^{\circ}51'44''$  EAST 400.000 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF  $06^{\circ}48'41''$  47.55 FEET TO A NON-TANGENT POINT; THENCE NORTH 162.002 FEET; THENCE SOUTH  $89^{\circ}59'29''$  EAST 594.413 FEET; THENCE SOUTH  $00^{\circ}06'40''$  WEST 274.115 FEET; THENCE SOUTH  $89^{\circ}59'25''$  EAST 317.663 FEET TO A POINT ON THE NEW RIGHT OF WAY LINE OF 2000 WEST STREET; THENCE ALONG SAID RIGHT OF WAY SOUTH  $00^{\circ}07'29''$  WEST 35.100 FEET TO THE POINT OF BEGINNING. CONTAINS 218,034 SQUARE FEET OR 5.01 ACRES.

14-09-0044  
0064  
0068

EXHIBIT "A"

E 1476193 12426 P 1388

Page 4

Apartment Parcel Legal Description:

**APARTMENT COMPLEX  
LEGAL DESCRIPTION**

BEGINNING AT A POINT NORTH 89°59'06" WEST 1,138.683 FEET AND NORTH 00°07'29" EAST 574.060 FEET FROM THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 362.480 FEET; THENCE EAST 634.000 FEET; THENCE SOUTH 88°44'17" EAST 94.539 FEET; THENCE SOUTH 00°06'35" WEST 119.605 FEET; THENCE WEST 167.135 FEET; THENCE SOUTH 45°00'00" WEST 283.910 FEET; THENCE SOUTH 99.850 FEET; THENCE SOUTH 45°00'00" WEST 70.240 FEET; THENCE WEST 303.168 FEET TO A POINT ON A NON-TANGENT CURVE TO THE RIGHT WHOSE RADIUS BEARS SOUTH 70°38'14" WEST 150.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE 26°46'03" 70.08 FEET; THENCE NORTH 46°07'50" WEST 43.71 FEET; THENCE NORTH 71°19'53" EAST 64.93 FEET; TO THE POINT OF BEGINNING.  
CONTAINS 241,441 SQUARE FEET OR 5.54 ACRES.